



Sen. Don Harmon

Filed: 3/3/2004

09300HB2626sam001

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1 AMENDMENT TO HOUSE BILL 2626

2 AMENDMENT NO. _____. Amend House Bill 2661 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Bond
5 Issuance Expense Limitation Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Bond" or "bonds" means any general obligation bond,
8 revenue bond, alternate bond, refunding or advance refunding
9 bond, or other bond, note, or evidence of borrowing or
10 indebtedness issued by a public issuer.

11 "Bond issuance expenses" means the fees and charges payable
12 by the issuer, either directly or out of the bond proceeds, for
13 the issuance and sale of bonds. The term does not, however,
14 include the costs of bond insurance, capitalized interest,
15 credit or liquidity enhancements, interest rate swaps or
16 guarantees, or financial futures contracts.

17 "Public issuer" means the State or any of its agencies or
18 instrumentalities.

19 Section 10. Applicability. This Act applies to all bonds
20 issued by or through a public issuer pursuant to an authorizing
21 resolution or contract for issuance adopted or entered into
22 after the effective date of this Act, regardless of the
23 statute, Omnibus Bond Act, or other source of authority under

1 which the issuance of those bonds is authorized. This Act does
2 not apply to bonds issued by a public issuer pursuant to an
3 authorizing resolution or contract for issuance adopted or
4 entered into on or before the effective date of this Act.

5 Section 15. Bond issuance expense limitations.

6 (a) Except as provided in subsection (b), bond issuance
7 expenses shall not exceed 0.5% of the principal amount of the
8 proceeds realized from the sale of the bonds.

9 (b) Bond issuance expenses for refunding and advance
10 refunding bonds shall not exceed 0.3% of the principal amount
11 of the proceeds realized from the sale of the refunding or
12 advance refunding bonds.

13 Section 20. Refunding bonds; net present value savings. A
14 public issuer may not issue refunding or advance refunding
15 bonds unless, before issuing the bonds, the public issuer
16 files with the Governor and the General Assembly a written
17 certification demonstrating that the issuance will result in a
18 net present value savings of at least 3%.

19 Section 25. Violation.

20 (a) The issuance of bonds or payment of bond issuance
21 expenses in violation of this Act does not invalidate the
22 bonds.

23 (b) The amount of any bond issuance expenses paid in excess
24 of the limitation imposed by Section 15 of this Act may be
25 recovered from the payee in an action brought by the public
26 issuer or the Illinois Attorney General. In addition, a payee
27 who knowingly accepts payment of bond issuance expenses in
28 violation of this Act shall be liable to the State for a civil
29 penalty of 3 times the amount in violation or \$100,000,
30 whichever is greater.

31 (c) Excess payments and penalties recovered under this

1 Section by the State or any of its agencies or
2 instrumentalities or by the Attorney General shall be deposited
3 into the General Revenue Fund.

4 Section 30. Competitive procurement. A public issuer
5 issuing bonds to which this Act applies must employ authorized
6 competitive procedures. Negotiated sale may be used only if (i)
7 it is permitted by the law authorizing issuance of the bonds
8 and (ii) it is preceded by a competitive request for proposal
9 procedure substantially similar to that required to be followed
10 by the State in the issuance of General Obligation Bonds under
11 Section 11 of the General Obligation Bond Act and the Illinois
12 Procurement Code.

13 Section 35. Guidance. The Governor's Office of Management
14 and Budget shall, upon request, provide guidance to any
15 potential public issuer on conforming its bond sale to the
16 requirements of this Act.

17 Section 90. The Statute on Statutes is amended by changing
18 Section 8 as follows:

19 (5 ILCS 70/8) (from Ch. 1, par. 1107)

20 Sec. 8. Omnibus Bond Acts.

21 (a) A citation to the Omnibus Bond Acts is a citation to
22 all of the following Acts, collectively, as amended from time
23 to time: the Bond Authorization Act, the Registered Bond Act,
24 the Municipal Bond Reform Act, the Local Government Debt Reform
25 Act, subsection (a) of Section 1-7 of the Property Tax
26 Extension Limitation Act, subsection (a) of Section 18-190 of
27 the Property Tax Code, the Uniform Facsimile Signature of
28 Public Officials Act, the Local Government Bond Validity Act,
29 the Illinois Finance Authority Act, the Public Funds Investment
30 Act, the Local Government Credit Enhancement Act, the Local

1 Government Defeasance of Debt Law, the Intergovernmental
2 Cooperation Act, the Local Government Financial Planning and
3 Supervision Act, the Special Assessment Supplemental Bond and
4 Procedure Act, Section 12-5 of the Election Code, and any
5 similar Act granting additional omnibus bond powers to
6 governmental entities generally, whether enacted before, on,
7 or after the effective date of this amendatory Act of 1989.

8 (b) The General Assembly recognizes that the proliferation
9 of governmental entities has resulted in the enactment of
10 hundreds of statutory provisions relating to the borrowing and
11 other powers of governmental entities. The General Assembly
12 addresses and has addressed problems common to all such
13 governmental entities so that they have equal access to the
14 municipal bond market. It has been, and will continue to be,
15 the intention of the General Assembly to enact legislation
16 applicable to governmental entities in an omnibus fashion, as
17 has been done in the provisions of the Omnibus Bond Acts.

18 (c) It is and always has been the intention of the General
19 Assembly that the Omnibus Bond Acts are and always have been
20 supplementary grants of power, cumulative in nature and in
21 addition to any power or authority granted in any other laws of
22 the State. The Omnibus Bond Acts are supplementary grants of
23 power when applied in connection with any similar grant of
24 power or limitation contained in any other law of the State,
25 whether or not the other law is enacted or amended after an
26 Omnibus Bond Act or appears to be more restrictive than an
27 Omnibus Bond Act, unless the General Assembly expressly
28 declares in such other law that a specifically named Omnibus
29 Bond Act does not apply.

30 (c-5) Notwithstanding the other provisions of this Section
31 and of any other law, bonds issued after the effective date of
32 this amendatory Act of the 93rd General Assembly under the
33 authority of any of the Omnibus Bond Acts are subject to the
34 requirements of the Bond Issuance Expense Limitation Act.

1 (d) All instruments providing for the payment of money
2 executed by or on behalf of any governmental entity organized
3 by or under the laws of this State, including without
4 limitation the State, to carry out a public governmental or
5 proprietary function, acting through its corporate
6 authorities, or which any governmental entity has assumed or
7 agreed to pay, which were:

8 (1) issued or authorized to be issued by proceedings
9 adopted by such corporate authorities before the effective
10 date of this amendatory Act of 1989;

11 (2) issued or authorized to be issued in accordance
12 with the procedures set forth in or pursuant to any
13 authorization contained in any of the Omnibus Bond Acts;
14 and

15 (3) issued or authorized to be issued for any purpose
16 authorized by the laws of this State,
17 are valid and legally binding obligations of the governmental
18 entity issuing such instruments, payable in accordance with
19 their terms.

20 (Source: P.A. 93-205, eff. 1-1-04.)

21 Section 92. The Illinois Finance Authority Act is amended
22 by adding Section 801-50 as follows:

23 (20 ILCS 3501/801-50 new)

24 Sec. 801-50. Bond Issuance Expense Limitation Act.
25 Notwithstanding any other provision of law, the issuance of
26 bonds under this Act is subject to the requirements of the Bond
27 Issuance Expense Limitation Act.

28 Section 94. The General Obligation Bond Act is amended by
29 changing Sections 8, 9, and 16 as follows:

30 (30 ILCS 330/8) (from Ch. 127, par. 658)

1 Sec. 8. Bond sale expenses; capitalized interest.

2 (a) Except as provided in subsection (a-5), an amount not
3 to exceed 0.5 percent of the principal amount of the proceeds
4 of sale of each bond sale is authorized to be used to pay the
5 reasonable costs of issuance and sale of State of Illinois
6 general obligation bonds authorized and sold pursuant to this
7 Act.

8 (a-5) An amount not to exceed 0.3 percent of the principal
9 amount of the proceeds of sale of each sale of refunding or
10 advance refunding bonds is authorized to be used to pay the
11 reasonable costs of issuance and sale of State of Illinois
12 general obligation bonds authorized and sold pursuant to this
13 Act.

14 (a-10) Notwithstanding any other provision of law, the
15 issuance of bonds under this Act is subject to the requirements
16 of the Bond Issuance Expense Limitation Act.

17 (b) The Bond Sale Order may provide for a portion of the
18 proceeds of the bond sale, representing up to 12 months'
19 interest on the bonds, to be deposited directly into the
20 capitalized interest account of the General Obligation Bond
21 Retirement and Interest Fund.

22 (Source: P.A. 93-2, eff. 4-7-03.)

23 (30 ILCS 330/9) (from Ch. 127, par. 659)

24 Sec. 9. Conditions for Issuance and Sale of Bonds -
25 Requirements for Bonds.

26 (a) Bonds shall be issued and sold from time to time, in
27 one or more series, in such amounts and at such prices as may
28 be directed by the Governor, upon recommendation by the
29 Director of the Governor's Office of Management and Budget
30 ~~Bureau of the Budget~~. Bonds shall be in such form (either
31 coupon, registered or book entry), in such denominations,
32 payable within 30 years from their date, subject to such terms
33 of redemption with or without premium, bear interest payable at

1 such times and at such fixed or variable rate or rates, and be
2 dated as shall be fixed and determined by the Director of the
3 Governor's Office of Management and Budget ~~Bureau of the Budget~~
4 in the order authorizing the issuance and sale of any series of
5 Bonds, which order shall be approved by the Governor and is
6 herein called a "Bond Sale Order"; provided however, that
7 interest payable at fixed or variable rates shall not exceed
8 that permitted in the Bond Authorization Act, as now or
9 hereafter amended. Bonds shall be payable at such place or
10 places, within or without the State of Illinois, and may be
11 made registrable as to either principal or as to both principal
12 and interest, as shall be specified in the Bond Sale Order.
13 Bonds may be callable or subject to purchase and retirement or
14 tender and remarketing as fixed and determined in the Bond Sale
15 Order.

16 In the case of any series of Bonds bearing interest at a
17 variable interest rate ("Variable Rate Bonds"), in lieu of
18 determining the rate or rates at which such series of Variable
19 Rate Bonds shall bear interest and the price or prices at which
20 such Variable Rate Bonds shall be initially sold or remarketed
21 (in the event of purchase and subsequent resale), the Bond Sale
22 Order may provide that such interest rates and prices may vary
23 from time to time depending on criteria established in such
24 Bond Sale Order, which criteria may include, without
25 limitation, references to indices or variations in interest
26 rates as may, in the judgment of a remarketing agent, be
27 necessary to cause Variable Rate Bonds of such series to be
28 remarketable from time to time at a price equal to their
29 principal amount, and may provide for appointment of a bank,
30 trust company, investment bank, or other financial institution
31 to serve as remarketing agent in that connection. The Bond Sale
32 Order may provide that alternative interest rates or provisions
33 for establishing alternative interest rates, different
34 security or claim priorities, or different call or amortization

1 provisions will apply during such times as Variable Rate Bonds
2 of any series are held by a person providing credit or
3 liquidity enhancement arrangements for such Bonds as
4 authorized in subsection (b) of this Section. The Bond Sale
5 Order may also provide for such variable interest rates to be
6 established pursuant to a process generally known as an auction
7 rate process and may provide for appointment of one or more
8 financial institutions to serve as auction agents and
9 broker-dealers in connection with the establishment of such
10 interest rates and the sale and remarketing of such Bonds.

11 (b) In connection with the issuance of any series of Bonds,
12 the State may enter into arrangements to provide additional
13 security and liquidity for such Bonds, including, without
14 limitation, bond or interest rate insurance or letters of
15 credit, lines of credit, bond purchase contracts, or other
16 arrangements whereby funds are made available to retire or
17 purchase Bonds, thereby assuring the ability of owners of the
18 Bonds to sell or redeem their Bonds. The State may enter into
19 contracts and may agree to pay fees to persons providing such
20 arrangements, but only under circumstances where the Director
21 of the Governor's Office of Management and Budget ~~Bureau of the~~
22 ~~Budget~~ certifies that he or she reasonably expects the total
23 interest paid or to be paid on the Bonds, together with the
24 fees for the arrangements (being treated as if interest), would
25 not, taken together, cause the Bonds to bear interest,
26 calculated to their stated maturity, at a rate in excess of the
27 rate that the Bonds would bear in the absence of such
28 arrangements.

29 The State may, with respect to Bonds issued or anticipated
30 to be issued, participate in and enter into arrangements with
31 respect to interest rate protection or exchange agreements,
32 guarantees, or financial futures contracts for the purpose of
33 limiting, reducing, or managing ~~or restricting~~ interest rate
34 exposure risk. The authority granted under this paragraph,

1 however, shall not increase the principal amount of Bonds
2 authorized to be issued by law. The arrangements may be
3 executed and delivered by the Director of the Governor's Office
4 of Management and Budget ~~Bureau of the Budget~~ on behalf of the
5 State. Net payments for such arrangements shall constitute
6 interest on the Bonds and shall be paid from the General
7 Obligation Bond Retirement and Interest Fund. The Director of
8 the Governor's Office of Management and Budget ~~Bureau of the~~
9 ~~Budget~~ shall at least annually certify to the Governor and the
10 State Comptroller his or her estimate of the amounts of such
11 net payments to be included in the calculation of interest
12 required to be paid by the State.

13 (c) Prior to the issuance of any Variable Rate Bonds
14 pursuant to subsection (a), the Director of the Governor's
15 Office of Management and Budget ~~Bureau of the Budget~~ shall
16 adopt an interest rate risk management policy providing that
17 the amount of the State's variable rate exposure with respect
18 to Bonds shall not exceed 20%. This policy shall remain in
19 effect while any Bonds are outstanding and the issuance of
20 Bonds shall be subject to the terms of such policy. The terms
21 of this policy may be amended from time to time by the Director
22 of the Governor's Office of Management and Budget ~~Bureau of the~~
23 ~~Budget~~ but in no event shall any amendment cause the permitted
24 level of the State's variable rate exposure with respect to
25 Bonds to exceed 20%.

26 (Source: P.A. 92-16, eff. 6-28-01; 93-9, eff. 6-3-03; revised
27 8-23-03.)

28 (30 ILCS 330/16) (from Ch. 127, par. 666)

29 Sec. 16. Refunding Bonds. The State of Illinois is
30 authorized to issue, sell, and provide for the retirement of
31 General Obligation Bonds of the State of Illinois in the amount
32 of \$2,839,025,000, at any time and from time to time
33 outstanding, for the purpose of refunding any State of Illinois

1 general obligation Bonds then outstanding, including the
2 payment of any redemption premium thereon, any reasonable
3 expenses of such refunding (subject to the requirements of the
4 Bond Expense Limitation Act), any interest accrued or to accrue
5 to the earliest or any subsequent date of redemption or
6 maturity of such outstanding Bonds and any interest to accrue
7 to the first interest payment on the refunding Bonds; provided
8 that such refunding Bonds shall mature no later than the final
9 maturity date of Bonds being refunded.

10 Refunding Bonds may be sold from time to time pursuant to
11 notice of sale and public bid or by negotiated sale in such
12 amounts and at such times, as directed by the Governor, upon
13 recommendation by the Director of the Governor's Office of
14 Management and Budget ~~Bureau of the Budget~~. The Governor shall
15 notify the State Treasurer and Comptroller of such refunding.
16 The proceeds received from the sale of refunding Bonds shall be
17 used for the retirement at maturity or redemption of such
18 outstanding Bonds on any maturity or redemption date and,
19 pending such use, shall be placed in escrow, subject to such
20 terms and conditions as shall be provided for in the Bond Sale
21 Order relating to the Refunding Bonds. Proceeds not needed for
22 deposit in an escrow account shall be deposited in the General
23 Obligation Bond Retirement and Interest Fund. This Act shall
24 constitute an irrevocable and continuing appropriation of all
25 amounts necessary to establish an escrow account for the
26 purpose of refunding outstanding general obligation Bonds and
27 to pay the reasonable expenses of such refunding and of the
28 issuance and sale of the refunding Bonds. Any such escrowed
29 proceeds may be invested and reinvested in direct obligations
30 of the United States of America, maturing at such time or times
31 as shall be appropriate to assure the prompt payment, when due,
32 of the principal of and interest and redemption premium, if
33 any, on the refunded Bonds. After the terms of the escrow have
34 been fully satisfied, any remaining balance of such proceeds

1 and interest, income and profits earned or realized on the
2 investments thereof shall be paid into the General Revenue
3 Fund. The liability of the State upon the Bonds shall continue,
4 provided that the holders thereof shall thereafter be entitled
5 to payment only out of the moneys deposited in the escrow
6 account.

7 Except as otherwise herein provided in this Section, such
8 refunding Bonds shall in all other respects be subject to the
9 terms and conditions of this Act.

10 (Source: P.A. 91-39, eff. 6-15-99; 91-53, eff. 6-30-99; 91-710,
11 eff. 5-17-00; revised 8-23-03.)

12 Section 98. The Build Illinois Bond Act is amended by
13 changing Section 5 as follows:

14 (30 ILCS 425/5) (from Ch. 127, par. 2805)

15 Sec. 5. Bond Sale Expenses. An amount necessary to pay the
16 reasonable costs of each issuance and sale of Bonds authorized
17 and sold pursuant to this Act, including advertising, printing,
18 bond rating, travel, security, delivery, legal and financial
19 advisory services, insurance, initial fees of trustees,
20 registrars, paying agents and other fiduciaries, initial costs
21 of credit or liquidity enhancement arrangements, initial fees
22 of indexing and remarketing agents, and initial costs of
23 interest rate swaps, guarantees or arrangements to limit
24 interest rate risk, as determined in the related Bond Sale
25 Order, is hereby authorized to be paid from the proceeds of
26 each Bond sale.

27 Notwithstanding any other provision of law, the issuance of
28 bonds under this Act is subject to the requirements of the Bond
29 Issuance Expense Limitation Act.

30 (Source: P.A. 84-111.)

31 Section 99. Effective date. This Act takes effect upon

1 becoming law.".